

REMARKS/ARGUMENTS:

Claim Amendments

Claims 1-12, 14 and 16-18 are currently pending. Claims 1-11 are withdrawn.

Applicant has amended claim 12 to recite, "... a sequence which encompasses a nucleic acid sequence encoding a modified monooxygenase having a modification in the amino acid sequence of SEQ ID NO:2, which modification consists of one functional mutation in each of amino acid sequence positions 87" Support for the amendment can be found in the original claim.

Applicant has canceled claim 18.

Applicant has amended claim 20 recite, "... a vector comprising a nucleic acid sequence encoding a modified monooxygenase having a modification in the amino acid sequence of SEQ ID NO:2, which modification consists of one functional mutation in each of amino acid sequence positions 87" Support for the amendment can be found in the original claim.

Entry and consideration of the claim amendments after final is respectfully requested as the instant claim amendments place the application in condition for allowance and/or in better format for Appeal and/or further limit issues which may be raised on appeal.

Applicant respectfully submits that the instant amendments were not previously submitted as the specific issues addressed by the amendments were only raised for the first time by the Examiner in the Final action. Accordingly, Applicants could not have made the requisite claim amendments obviating the issues at an earlier stage in the proceedings. Additionally, the instant claim amendments merely obviate the issues newly raised by the Examiner and do not change the scope of the claims or add new matter which would necessitate further substantial examination and/or search by the Examiner.

Favorable action is respectfully requested.

Claim Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejected Claim 12, 14 and 16-18 under 35 USC § 112, second paragraph, as allegedly indefinite for failure to point out and distinctly claim the subject matter the

Applicant regards as the invention. More specifically, the Examiner indicated that “it is not clear to the Examiner how a polypeptide can have the amino acid sequence of a given sequence identifier (SEQ ID NO: 2 in the instant case) and also have mutations.

In view of the above, Applicant has amended each of independent claims 12 and 20 to recite a “...sequence encoding a modified monooxygenase having a modification in the amino acid sequence of SEQ ID NO:2, which modification *consists* of one functional mutation in each of amino acid sequence positions 87 ...,” to thereby obviate the rejection.

Withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 12, 14, 16-18 and 20 under 35 USC § 112, first paragraph, as 1.) failing to comply with the written description requirement and for 2.) failing to comply with the enablement requirement.

Applicant has amended each of independent claims 12 and 20 to recite a “...sequence encoding a modified monooxygenase having a modification in the amino acid sequence of SEQ ID NO:2, which modification *consists* of one functional mutation in each of amino acid sequence positions 87” (Emphasis added).

As noted by the Examiner, “[t]he specification ... teaches a method ... wherein the mutant consists of mutations at positions 26, 47, 74, 87 ...,” and “the specification, ... [is] enable[ed] for a method ... wherein the mutant consists of a substitution at positions 87 and 188.” (See Pages 5 and 8 of Office Action of August 20, 2008 (Emphasis in Original)). In view thereof, Applicant respectfully submits that the amendments to claims 12 and 20 obviate the written description and enablement rejections under 35 USC §112, first paragraph.

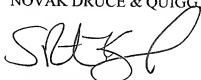
Withdrawal is respectfully requested.

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Inventor: HAUER et al.
Docket No.: 51241

Conclusion

Applicants respectfully submit that the present application is in condition for allowance, which action is courteously requested. Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 14.1437. Please credit any excess fees to such account.

Respectfully submitted,
NOVAK DRUCE & QUIGG, LLP

A handwritten signature in black ink, appearing to read 'S. Peter Konzel', written over the printed name.

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Dated: October 20, 2008